

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CLIFFORD L. ROBINSON,

Petitioner,

v.

CASE NO. 2:20-CV-5611

CRIM. NO. 2:14-CR-127(16)

CHIEF JUDGE ALGENON L. MARBLEY

Magistrate Judge Chelsey M. Vascura

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

On November 5, 2020, the Magistrate Judge issued a Report and Recommendation pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, recommending that the Motion to Vacate under 28 U.S.C. § 2255 be dismissed. (ECF No. 1683.) Petitioner has filed an Objection to the Magistrate Judge's Report and Recommendation. (ECF No. 1689.)

Petitioner again argues that he should not have been convicted on the charge of murder in aid of racketeering under 18 U.S.C. § 1959(a)(1). However, claims of insufficiency of the evidence may not be considered in a motion under 28 U.S.C. § 2255. *United States v. Matsa*, No. 2:15-cv-700, 2:09-cr-297, 2017 WL 4469120, at *11 (S.D. Ohio Oct. 6, 2017) (citing *Scott v. Morrison*, 58 App'x 602, 603 (6th Cir. 2002) (other citations omitted). Moreover, the United States Court of Appeals for the Sixth Circuit has already rejected the same arguments that Petitioner raises here. *United States v. Ledbetter*, 929 F.3d 338, (6th Cir. 2019).


Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For these reasons and for the reasons detailed in the Magistrate Judge's Report and Recommendation, Petitioner's Objection (ECF No. 1689) is **OVERRULED**. The Report and Recommendation

(ECF No. 1683) is **ADOPTED** and **AFFIRMED**. The Motion to Vacate (ECF No. 1679) is **DISMISSED**.

Pursuant to Rule 11 of the Rules Governing Section 2255 Proceedings, the Court now considers whether to issue a certificate of appealability. 28 U.S.C. § 2253(c)(1) (requiring a habeas petitioner to obtain a certificate of appealability in order to appeal.) When a claim has been denied on the merits, a certificate of appealability may issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To make a substantial showing of the denial of a constitutional right, a petitioner must show “that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893, n.4 (1983)). This Court is not persuaded that reasonable jurists would debate the dismissal of this action.

The Court therefore **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED.


ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE